

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

CHARLES W REED, III; aka DWIGHT
BYRD,

Plaintiff,

VS.

A GALLEGOS, *et al*,

Defendant.

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CIVIL ACTION NO. C-07-00190

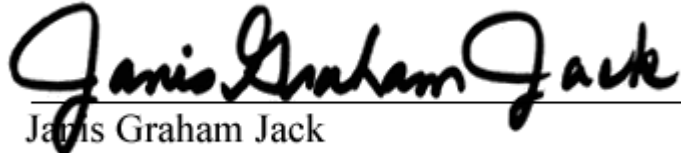
**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION
TO DISMISS CERTAIN CLAIMS AND TO RETAIN CASE**

On May 16, 2007, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending that plaintiff's Eighth Amendment failure to protect claim against Lieutenant A. Gallegos be dismissed with prejudice for failure to state a claim and as frivolous. 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b)(1). The Memorandum and Recommendation further recommended that plaintiff's excessive force claim against Officer J. Perez be retained on the Court's docket, and service ordered on this defendant. Seeing no objection to this recommendation by either party and having now reviewed the recommendation, this Court hereby adopts as its own the Memorandum and Recommendation as the decision of the Court. Accordingly, it is

ORDERED that plaintiff's Eighth Amendment failure to protect claim against Lieutenant A. Gallegos is dismissed with prejudice for failure to state a claim and as frivolous. Plaintiff's excessive force claim against Officer J. Perez is retained on the Court's docket.

The clerk shall enter this order and provide a copy to all parties.

SIGNED this 10th day of July, 2007.


Jarvis Graham Jack
United States District Judge